

IN THE DISTRICT COURT OF BROWN COUNTY, NEBRASKA

THE STATE OF NEBRASKA,

Plaintiff,

vs.

TIMOTHY G. DAUGHERTY,

Defendant.

Case No. CR02-13

**ORDER ON MOTION
TO SUPPRESS**

DATE OF HEARING: November 14, 2002.
DATE OF RENDITION: November 14, 2002.
DATE OF ENTRY: Date of filing by court clerk (§ 25-1301(3)).
TYPE OF HEARING: Open court.
APPEARANCES:
For plaintiff: David M. Streich, Brown County Attorney.
For defendant: Rodney J. Palmer with defendant.
SUBJECT OF ORDER: Defendant's motion to suppress.
PROCEEDINGS: At the hearing, these proceedings occurred:

Counsel for plaintiff and counsel for defendant presented opening comments. The plaintiff adduced evidence. Reagan Wiebelhaus testified upon oath. The plaintiff rested. The court denied the defendant's attempted motion to dismiss as procedurally improper. The defendant adduced evidence. The defendant, Timothy G. Daugherty, testified upon oath. The defendant rested. The plaintiff rested on rebuttal without rebuttal evidence. After a brief recess, the court pronounced factual findings. Upon inquiry by the court, neither party requested additional factual findings. The court pronounced decision.

FINDINGS: The findings were stated on the record.

ORDER: IT IS THEREFORE ORDERED that:

1. The defendant's motion to suppress is granted to the extent of the relief set forth below and is otherwise denied.

2. The evidence seized during the officer's search of the defendant's person is suppressed.

3. The evidence seized during the second, thorough search of the defendant's vehicle is suppressed.

4. All statements of the defendant to the officer between the time that the officer commenced the search of the defendant's person and the eventual administration of *Miranda* warnings are suppressed.

5. Pursuant to §§ 29-118 and 29-826, the county attorney is allowed until **Friday, November 22, 2002**, to file notice of his intention to seek review of this order.

6. The pretrial conference is continued to further order upon expiration of the time to file such notice if none is filed or until the mandate of the appellate court if review is timely sought.

7. Except for articles of contraband, the property seized shall be returned to the defendant. The articles of contraband shall be destroyed. Such return or destruction shall be accomplished upon expiration of the time to file such notice if none is filed or upon the mandate of the appellate court if review is timely sought.

Signed at **Ainsworth**, Nebraska, on **November 14, 2002**;

DEEMED ENTERED upon file stamp date by court clerk.

If checked, the court clerk shall:

☒ Mail a copy of this order to all counsel of record and any pro se parties.
Done on _____, 20____ by _____.

☒ If not already done, immediately transcribe trial docket entry dictated.
Done on _____, 20____ by _____.

BY THE COURT:

William B. Cassel
District Judge

Mailed to: